

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NIPPON SHINYAKU CO., LTD.,

Plaintiff,

v.

C.A. No. 21-1015-LPS

SAREPTA THERAPEUTICS, INC.,

Defendant.

MEMORANDUM ORDER

WHEREAS, on July 13, 2021, Plaintiff Nippon Shinyaku Co., Ltd. (“Nippon Shinyaku”) sued Defendant Sarepta Therapeutics, Inc. (“Sarepta”) for breach of contract and various patent-related claims (*see generally* D.I. 2, 12);

WHEREAS, Nippon Shinyaku simultaneously moved for a preliminary injunction, seeking to require Sarepta to withdraw seven petitions for *inter partes* review pending before the Patent Trial and Appeal Board (*see generally* D.I. 4, 13);

WHEREAS, Nippon Shinyaku and Sarepta both requested that the Court hear oral argument on Nippon Shinyaku’s motion for a preliminary injunction (D.I. 26, 27);

WHEREAS, Nippon Shinyaku subsequently requested that the Court expedite the scheduling of oral argument on its motion (D.I. 46);

WHEREAS, the Court has carefully reviewed the briefing and other materials submitted in connection with Nippon Shinyaku’s motion (*see generally* D.I. 5, 14, 18, 23, 25, 30);

NOW, THEREFORE, IT IS HEREBY ORDERED that Nippon Shinyaku’s motion for a preliminary injunction (D.I. 4) is **DENIED**.

To obtain a preliminary injunction, the movant must show: (i) “a reasonable probability of eventual success in the litigation,” and (ii) “that it will be irreparably injured . . . if relief is not granted.” *Reilly v. City of Harrisburg*, 858 F.3d 173, 176 (3d Cir. 2017). If those two factors are met, then courts may also consider: (iii) “the possibility of harm to other interested persons from the grant or denial of the injunction,” and (iv) “the public interest.” *Id.*

Nippon Shinyaku has failed to persuade the Court that it is likely to succeed on the merits, that it will suffer cognizable irreparable harm in the absence of extraordinary preliminary relief, that the balance of harms tips in its favor, or that the public interest warrants the relief that it seeks. In due course, the Court will issue a memorandum that more fully explains its reasoning.

IT IS FURTHER ORDERED that the parties’ requests for oral argument (D.I. 26, 27), including Nippon Shinyaku’s request for expedited scheduling of oral argument (D.I. 46), are **DENIED**.

September 24, 2021
Wilmington, Delaware



HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT JUDGE